

THE LAW FIRM OF

CÉSAR DE CASTRO, P.C.

ATTORNEY AT LAW

The District
111 Fulton Street - 602
New York, New York 10038
631.460.3951 Office
646.285.2077 Mobile
646.839.2682 Fax
cdecastro@cdecastrolaw.com
cdecastrolaw.com

January 28, 2022

Via ECF and E-Mail

The Honorable Loretta A. Preska
United States District Judge
U.S. District Court for the Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Baez, et al. v. New York City Housing Authority (NYCHA)*, 13 Cv. 8916 (LAP)
**Ombudsperson Quarterly Report, Q5, Q6, and Q7 - November 1, 2020, to
July 31, 2021¹**

Dear Judge Preska,

In quarters 5, 6, and 7 of operations (November 1, 2020, to July 31, 2021), the Ombudsperson Call Center (“OCC”) and the undersigned as Ombudsperson continued to assist New York City Housing Authority (“NYCHA”) residents to resolve thousands of mold and leak related issues. The OCC serviced more than three thousand residents each month while the undersigned monitored hundreds of matters for potential resolution. Since the office of the Ombudsperson and the OCC were created, we have worked collaboratively with NYCHA residents and NYCHA management to obtain action and relief for residents suffering from mold and leak related problems. In the above quarters, I worked collaboratively with NYCHA on matters escalated to me for resolution and did not issue any formal Ombudsperson written decisions. The OCC continued to be successful in resolving NYCHA resident complaints regarding mold and leak issues with very little need for use of my formal adjudication powers. I continued to monitor matters and work through the OCC to resolve escalated matters.²

¹ This Ombudsperson report summarizes the operations of the Ombudsperson Call Center and Ombudsperson for quarters 5, 6, and 7. Annexed hereto are the corresponding quarterly reports of Stout Risius Ross, LLC (“Stout”) regarding its operation of the OCC that contains a detailed and comprehensive analysis of the complaints received, resolved, and those still outstanding.

² I have made clear to NYCHA that requests made by OCC staff should be considered Ombudsperson orders. The OCC management consults with me prior to issuing any non-routine requests regarding resolving any resident complaints. Accordingly, the OCC and Ombudsperson have issued hundreds of orders through quarters 5,6, and 7.

In quarters 5, 6, and 7, the OCC has averaged approximately 385 new mold and leak complaints per month. Many of the complaints continue to involve reports of severe conditions or a lack of proper repair work. As of July 31, 2021 (the close of quarter 7), the OCC had assisted a total of nearly 9,000 NYCHA residents with at least 9,400 direct and indirect mold and leak related complaints. The OCC has participated in nearly 36,000 calls with NYCHA residents. Below is a summary of notable OCC metrics for each quarter:

	<u>Quarter 5</u>	<u>Quarter 6</u>	<u>Quarter 7</u>
New Resident Complaints to OCC	1,325	1,039	1,219
Calls With Residents	6,332	8,188	6,278
Complaints Serviced	4,102	3,602	3,360
Complaints Resolved	1,014	1,840	1,261
Open Tickets at End of Quarter	2,563	2,141	2,099

As in every prior quarter, the OCC continued to receive incredibly positive feedback from all stakeholders.

Through quarters 5,6, and 7, NYCHA continued to make exceptional strides in ensuring that the principles of its Mold Busters Program were applied and was responsive to all OCC and Ombudsperson requests and orders. However, at the close of each quarter, NYCHA has consistently carried more than 50,000 open mold and/or leak work orders, the majority of which were open for greater than 7 or 15 days, in technical violation of the Consent Decree.

NYCHA Open Work Orders at Close of Quarter

	<u>Quarter 5</u>	<u>Quarter 6</u>	<u>Quarter 7</u>
Appx. Mold and Leak Open WO's	57,000	51,000	54,000
Percent Open for > 7 or >15 Days	92%	94%	92%

To service the nearly ten thousand complaints that the OCC serviced through quarter 7, it has needed the help of NYCHA's Mold Response Unit ("MRU") for thousands. Ideally, the OCC can resolve resident complaints without the need of any specialized units or the MRU if adequate information and scheduling dates are available. Unfortunately, largely due to the inconsistent responsiveness of many developments, the unavailability of vendors and maintenance staff, the failure to schedule and honor scheduled repair dates, the OCC has needed to involve MRU, which has limited staff, to get residents results. Below is a summary of the number of matters needing MRU assistance each quarter.

	<u>Quarter 5</u>	<u>Quarter 6</u>	<u>Quarter 7</u>
Matters Needing MRU Assistance	3,255	2,959	2,882

The OCC and the undersigned work very closely with the hard working and dedicated MRU staff. However, the sheer volume of OCC related matters with which it must contend monthly is not sustainable without a massive staff infusion. In quarter 6, MRU began tracking matters in which development lack of responsiveness was adversely affecting resolution of OCC complaints. In April 2021, MRU began sending weekly reports to the OCC and the undersigned

identifying the developments whose lack of responsiveness was adversely affecting the resolution of OCC tickets. Accordingly, at my request, in early May 2021, MRU arranged for me to meet with those developments and underscore the requirement and necessity that they be responsive to OCC matters and prioritize resolving the mold and leak complaints pending in their developments.

In addition to matters being escalated to MRU staff, matters are escalated by the OCC directly to me for monitoring. While I did not issue formal written decisions/orders in these quarters, I worked through the OCC and at times directly with NYCHA to ensure that escalated matters were back on track and on a path towards resolution. Cases brought to my attention for monitoring steadily increased in these three quarters. That troubling metric resulted in Ombudsperson orders issued in quarter 8 (which will be discussed in the next quarterly report) requiring NYCHA action be taken in more than 120 OCC matters to which NYCHA prioritized and mobilized immediately in the majority of the cases. Below is a summary chart detailing the number of Ombudsperson escalations throughout these three quarters.

	<u>Quarter 5</u>	<u>Quarter 6</u>	<u>Quarter 7</u>
Escalations to Ombudsperson	301	403	449

The OCC continues to be an extremely valuable resource for residents suffering from mold and leak issues. And while thousands of residents seek our assistance, there still are many NYCHA residents that are unaware of its existence. In December 2020, the New York City Council passed local law 1911-2020. This law requires that an “office or agency designated by the New York City Mayor” distribute to each NYCHA resident, local elected officials, and certain community representatives, information regarding the OCC and the Ombudsperson. In addition, the law also requires that a public briefing be held at least once a year to provide information regarding the OCC and Ombudsperson. In more than one year since its passage, we are not aware of any work, plans, or progress towards implementing the requirements of the legislation.

NYCHA recently launched a mold awareness campaign. Other than this recent campaign that is focused on mold and not the OCC and Ombudsperson (although we are included in these materials), it has largely only utilized social media to raise OCC awareness. This is despite the fact that the OCC’s data-based findings conclude that the most effective means to raise OCC awareness are more directed outreach, such as rent mailers, emails and door-to-door canvassing. We urge NYCHA to use these other proven means of increasing awareness in order to educate all residents of the OCC and its abilities to assist them.

The OCC and Ombudsperson operations continued to effectively and efficiently serve NYCHA residents in quarters 5, 6, and 7. The OCC, NYCHA, and the undersigned Ombudsperson worked collaboratively to resolve thousands of resident mold and leak complaints and ensure that work continues to resolve the thousands of additional open matters.

Respectfully submitted,

/s/

César de Castro
NYCHA Mold and Leak Ombudsperson

cc: All Parties (*via* ECF)